that the Controller's order is never final or conclusive until it is satisfied in which case no question could arise.

In my view therefore, this objection is fatal to the appellant's claim and it is not necessary to consider the other grounds upon which the learned judge arrived at his decision.

I would dismiss the appeal. As the appellant is a pauper there will be no order as to costs.

COBBETT, J.—I agree.

WILLIAMSON, J.—I agree.

Appeal dismissed.

Solicitor for the Plaintiff (Appellant)—*K. P. K. Menon.*

Solicitor for the Defendant (Respondent)—*N. A. Mallal.*

[APPELLATE CIVIL JURISDICTION]

HUGGARD, C.J., TERRELL and MILLS, JJ.

July 4, 1933.

Dr. C. J. PAGLAR.....Appellant

vs.

THE MEDICAL COUNCIL.....Respondents

[SINGAPORE SPECIAL APPEAL No. 1 of 1933]

IN THE MATTER OF ORDINANCE No. 99 (MEDICAL REGISTRATION, 1907) AND IN THE MATTER OF AN ENQUIRY INTO THE PROFESSIONAL CONDUCT OF DR. C. J. PAGLAR.

Ordinance No. 99 (Medical Registration)—Appeal—Definition of Supreme Court.

A medical practitioner was found guilty of infamous conduct by the Medical Council. He appealed under sec. 18 of Ordinance 99 (Medical Registration) to the Supreme Court.

Held, that an appeal to the Supreme Court under sec. 18 of Ordinance 99 (Medical Registration) lies to a single judge and not direct to the full Court of Appeal.

Appeal to the full Court of Appeeal (Sir W. C. Huggard, C. J., Terrell, J., and Mills, J.)

When the Appeal came on for hearing the Bench asked that as a preliminary to the hearing of the Appeal, argument should be directed to the question whether under Ordinance 99 the appeal lay from the Medical Council to the full Court of Appeal or to the Supreme Court.

Knowles for Appellant.

Campbell for Respondent.

Cur. Ad. Vult.

HUGGARD, C. J.—This is an appeal under the provisions of section 18 of Ordinance No. 99 (Medical Registration) against the decision of the Medical Council under which the Appellant Dr. Charles Joseph Paglar was found guilty of infamous conduct in a professional respect and his name was ordered to be erased from the Medical Register.

Sub-section (2) of section 18 confers on any person whose name has been struck out from the register the right to appeal to the Supreme Court.

A preliminary point was taken by this Court as to whether, under the sub-section in question, such an appeal lies to the Court of Appeal or to a single Judge, and Counsel for the Appellant and the Respondent were invited to address us on this point.

The only previous appeal under the Ordinance was *F. W. Goonetilleke* v. *The Medical Council* heard in 1911 and reported in 12 S.S.L.R., page 95. In that case the appeal was heard by a Bench of four Judges and the following paragraph appears in the statement of facts at page 97:—

> "The appeal was heard before Law, Ag. C. J., Thornton, Fisher and Ebden, JJ., the Ordinance XI of 1907 only providing for an appeal to 'the Supreme Court' and that consisting by virtue of the Courts Ordinance, 1907, of the Chief Justice and three or more Puisne Judges."

There is, however, nothing in the Report to show that the question as to the proper constitution of the Tribunal was argued, so that the Court gave any ruling on the matter. I do not think that the fact that the appeal referred to was heard before four Judges is in any way binding on this Court, and Counsel in the present case did not rely on it. In fact I understood it to be agreed by Counsel for both the Appellant and the Respondent that the appropriate Tribunal must be either the Court of Appeal or a single judge.

Now, it was contended by Counsel for both parties that an appeal under section 18 (2) of the Ordinance lies to the Court of Appeal. The basis of this contention was that as this is an *appeal* to the Supreme Court it must necessarily be heard by the Supreme Court in its appellate jurisdiction which, by virtue of section 10 of Ordinance No. 101 (Courts), means the Court of Appeal consisting of not less than three Judges.

I agree that *prima facie* this contention is sound, but there is, of course, nothing to prevent the Legislature from conferring appellate jurisdiction in any particular matter on a single Judge. The question we have to decide, therefore, is what the Legislature intended by the words "the Supreme Court" in section 18 (2) of the Ordinance.

In my view the intention of the Legislature in using the words "the Supreme Court" in Ordinance No. 99 (Medical Registration) is

clearly ascertainable if we turn to Ordinance No. 103 (Stamps) (now repealed) which was passed in the same year. In section 32 (1) of that Ordinance we find a right of appeal to the Supreme Court in regard to the amount of stamp duty, and, later, in section 80 (1) we find a similar right of appeal in regard to the amount of estate duty. Then sub-section (2) of section 80 goes on to provide as follows:—

> "No appeal shall be allowed from any order, direction, determination or decision of the Supreme Court under any appeal under this section except with the leave of the Supreme Court or Court of Appeal."

Here we find the expressions "Supreme Court and "Court of Appeal" used in contradistinction, and it is an obvious inference, in my opinion, that in using the expression "Supreme Court" the Legislature intended to refer to a single Judge of that Court. And if in section 80 of the Ordinance the expression "Supreme Court" means a single Judge it must have a similar meaning in section 88, as it can hardly be suggested that the Legislature, in using the expression "Supreme Court," meant a single Judge in section 80 but meant the Court of Appeal in section 32.

The view which I have expressed regarding appeals under Ordinance No. 103 (Stamps) has the support of actual practice, and I believe I am right in saying that every appeal under that Ordinance has been heard by a single Judge and that the correctness of the procedure has never been questioned.

Now, when we turn to section 18 of Ordinance No. 99 (Medical Registration), which as I have said was passed in the same year as Ordinance No. 103 (Stamps), and we find exactly similar phraseology used there, the conclusion is in my view irresistible that the Legislature had in mind the same Tribunal, namely, a single Judge of the Supreme Court.

Mr. Knowles for the Appellant tried to distinguish between these two Ordinances by pointing out that in one case the appeal lies from the decision of an administrative officer, while in the other case the appeal lies from the decision of a quasi-judicial body, and he argued that it was unlikely that the Legislature could have intended a single Judge to exercise appellate jurisdiction from a body like the Medical Council. That, however, was a matter for the Legislature when considering the Ordinance, and if its intention had been that such appeals should be heard by the Court of Appeal or some Tribunal other than a single Judge it would undoubtedly have said so.

In my view, therefore, appeals under Ordinance No. 99 (Medical Registration) lie to a single Judge of the Supreme Court and not to the Court of Appeal.

It was ordered by Whitley, J. on the 6th June, 1933, on a Summons in Chambers, that this appeal should be heard by the Court of Appeal to be composed of three judges and that the Honourable Sir David James Galloway should be appointed Assessor. I think that this order should be discharged and that this appeal should be set down for hearing before a single Judge, who can, if he thinks it desirable, appoint an Assessor to assist him.

TERRELL, J.—This is an appeal from a decision of the Medical Council dated the 10th April, 1933. The appeal is brought under section 18 (2) of Ordinance No. 99 (Medical Registration) the material portions of which read as follows:—

> "Any person whose name has been struck out from the Register may appeal to the Supreme Court."

On the 6th June, 1933 an order was made by Whitley, J. in chambers to the effect that Sir David Galloway be appointed assessor in the Court of Appeal to be composed of three judges.

If the view submitted by the appellant and the Respondent's Counsel is correct, and the appeal under the Ordinance is to the Supreme Court in its appellate jurisdiction, that is to say to the Court of Appeal, the proceedings before Whitley, J. were irregular. The order could only be made in the Court of Appeal under the provisions of section 1150 (1) of the Civil Procedure Code and the application should be by motion in accordance with section 1150 (2). In any case the matter having come before the Court of Appeal, it can be reconsidered under the provisions of section 1150 (3).

The only precedent for an appeal of this kind in the Colony is the case of *F. W. Goonetilleke* vs. *The Medical Council*, XII S.S.L.R. p. 95. That case was heard before the Acting Chief Justice and three puisne judges who were all the available judges in the Colony. There appears to have been no argument as to what was the proper tribunal, but on page 97 of the Report the following passage occurred:—

> "The appeal was heard before Law acting C.J., Thornton, Fisher and Ebden, JJ., the Ordinance XI, of 1907 only providing for an appeal to 'the Supreme Court' and that consisting by virtue of the Courts Ordinance 1907 of the Chief Justice and three or more Puisne Judges."

At the hearing before this Court neither appellant nor respondent relied on the authority of the reported case. Both submitted that the proper tribunal for hearing the appeal from the Medical Council was the Court of Appeal of the Colony and not a full bench Court composed of all the available judges.

Counsel relied mainly on the wording of section 10(1) of Ordinance No. 101 (Courts) which provides:

> "The appellate civil Jurisdiction of the Supreme Court except as hereinafter and in the Civil Procedure Code mentioned, shall be exercised by not less than three Judges."

It was argued that as this was an appeal from the Medical Council to the Supreme Court, it must necessarily be an appeal to it in its appellate jurisdiction and that the proper tribunal was the Court of Appeal. No reliance was placed on section 3 (1) of the Ordinance which provides:

> "The Supreme Court shall consist of and be holden by and before a Judge to be called the Chief Justice of the Straits Settlements and three or more Puisne Judges."

except as an argument that the appeal could not be heard before a single judge.

Now, if the provisions of Ordinance No. 131 (Interpretation) could be relied on there would be no difficulty. In that Ordinance Supreme Court is defined as follows:—

> "Supreme Court" means the Supreme Court of the Straits Settlements or a Judge thereof.

This Ordinance, however, previously No. VI of 1912, was not in force at the time that Ordinances 99 and 101 were enacted, and I think it must be conceded that a later Interpretation Ordinance cannot affect the meaning of words used in an earlier Ordinance, if there is any indication in the earlier Ordinance that the words used had a different meaning. It is argued by appellant's counsel that section 3 (1) of the Courts Ordinance supplies a definition of the Supreme Court which is inconsistent with the definition in the Interpretation Ordinance, but I do not think the Courts Ordinance supplies a definition at all. Section 3 (1) merely describes the constitution and personnel of the Court, it does not define it, and although it is true that the Court of Appeal is regarded in the Courts Ordinance as the Supreme Court in its appellate jurisdiction, no case was cited where in any other Ordinance a reference to the Supreme Court implies a reference to such Court in its appellate as opposed to its original jurisdiction. On the contrary, in Ordinance No. 103 Stamps, which was also enacted before the date of the Interpretation Ordinance, an appeal from the commissioner is to the Supreme Court under sections 32 (1) and 80 (1) and a later sub-section 80 (2) makes it quite clear that the Supreme Court means the Supreme Court in its original jurisdiction.

It appears to me impossible to give a different meaning to similar words occurring in two Ordinances passed at about the same time, and I think that if it had been intended that the appeal from the Medical Council should be direct to the Court of Appeal the Ordinance would have said so.

I do not think that this Court can consider the argument that as the Medical Council consists of eight gentlemen, the leaders of their profession, the Legislature cannot have intended an appeal to a single judge. That was a matter for the consideration of the Legislature when the Ordinance was passed, and if Supreme Court means a single judge in the Stamp Ordinance, presumably the Legislature thought that this was a proper tribunal to which an appeal should be preferred under Ordinance 99 (Medical Registration).

In my view, therefore, the Interpretation Ordinance of 1912 did not alter the law so far as concerned the definition of Supreme Court, it merely declared it, and there is nothing in the Courts Ordinance inconsistent with the definition in the Interpretation Ordinance. As regards the case of *Goonetilleke* v. *Medical Council* the point does not appear to have been argued and is not referred to in any of the judgments. In any case it is a decision of the Court in its original jurisdiction and is not binding on the Court of Appeal.

I think, therefore, that the appeal should be heard before a single judge. It will be for that judge to say whether or not he requires the assistance of an assessor.

MILLS, J.—In this proceeding Dr. C. J. Paglar appeals against a decision of the Medical Council given on the 10th April, 1933.

The appeal is brought under Section 18 (2) of Ordinance No. 99 (Medical Registration), which contains the following provision:—

> "Any person whose name has been struck out from the Register may appeal to the Supreme Court."

The question to be decided is, what did the Legislature mean by the expression 'Supreme Court' when they enacted the Medical Registration Ordinance, No. XI of 1907?

The General Clauses Ordinance, 1888, provides no assistance, but it is pertinent to ascertain what the Legislature meant by 'Supreme Court' in other Ordinances passed about the same time and prior to the Interpretation Ordinance, 1912.

Three possibilities present themselves:—

(1) "Supreme Court" means the whole body of the Judges;

(2) "Supreme Court" means the Court of Appeal;

(3) "Supreme Court" means the Supreme Court.

As to the first possibility.

In the case of *F. W. Goonetilleke* v. *The Medical Council*, (12 S.S.L.R. p. 95), four judges were convened to constitute the appellate tribunal, but there does not appear to have been any argument regarding the meaning of "Supreme Court" and it remains uncertain whether the

Court held that all the available judges must be members of the tribunal, or whether the Court held that in that particular case it was convenient to constitute a bench of not less than four judges.

In the present proceeding, Counsel for both parties have argued that "Supreme Court" does not mean the whole body of Judges; and, in my opinion, their contention is correct; I find it impossible to believe that the Legislature intended the whole body of Judges to be convened in order to perform such comparatively unimportant functions as to adjust a dispute regarding the affairs of a dissolved society (Ordinance No. XX of 1909, Section 26), or to permit the exchange of property by the trustees of the Kwong-Wai-Shiu Free Hospital (Ordinance No. XVI of 1910, Section 6).

As to the second possibility.

Counsel for both parties contend that "Supreme Court" means the Court of Appeal. The argument is substantially as follows:—

> "This is an appeal to the Supreme Court exercising appellate jurisdiction.
>
> By Section 10 (2) of Ordinance No. 101 (Courts), the Supreme Court when exercising appellate jurisdiction, shall be called the Court of Appeal.
>
> Therefore this appeal is to the Court of Appeal."

I regret I am unable to subscribe to that argument.

No doubt this is an appeal to the Supreme Court, and no doubt the Supreme Court when hearing the appeal is exercising appellate jurisdiction. But Section 10 (2) of Ordinance No. 101 (Courts) does not say that the Supreme Court when exercising appellate jurisdiction shall be called the Court of Appeal.

What it says is "The Supreme Court when exercising Appellate Jurisdiction under this section, shall be called the Court of Appeal"; and in my opinion the "Appellate Civil Jurisdiction" referred to in section 10 means the Appellate Civil Jurisdiction specified in section 11; whereas section 11 does not refer either expressly or impliedly to an appeal from the Medical Council under Ordinance No. 99 (Medical Registration).

In my opinion, therefore, there is no foundation for the contention that "Supreme Court" means the Court of Appeal.

As to the third possibility.

The only remaining alternative is that "Supreme Court" means Supreme Court. The Legislature says "Supreme Court" and it is the duty of the Courts to hold that the Legislature means what it says unless there are strong grounds to the contrary: I can find no such grounds: in my opinion, if the Legislature had meant Court of Appeal, it would have said "Court of Appeal," as indeed it does so say in the Civil Procedure Code of 1907, Section 1237, where it states that in certain cases an appeal lies from the District Court to the Court of Appeal.

Furthermore, there are other ordinances in which an appeal to the Supreme Court is allowed: in the Bankruptcy Ordinance, 1888, an appeal is allowed from the Official Assignee (Section 79), and from the Registrar (Section 83), and in the Stamp Ordinance, 1907, an appeal is allowed from the Commissioner (Section 81); in these Ordinances "Supreme Court," in my opinion, means the Supreme Court and not the Court of Appeal; and the Courts ought to hold that such an expression as "Supreme Court" means the same Tribunal in these various ordinances unless there is good reason to hold the contrary; I can find no such reason.

It remains to consider certain objections advanced by Counsel:—

(*a*) It is urged that the Legislature cannot have intended that a single Judge should have power to hear an appeal from such an important body as the Medical Council; the answer is that the Legislature very probably did so intend, since in Ordinance No. 202 (Dentists Registration), Section 10, power is given to the Supreme Court to hear an appeal from the Dental Board (which Board includes the Medical Council); further, in Ordinance No. 125 (Merchant Shipping), section 291 (2), a case heard by a Court of Investigation may be re-heard by a single Judge of the Supreme Court, and by Section 291 (3), an appeal lies in certain circumstances from a Court of Investigation to the Supreme Court; it was contended that in this last instance "Supreme Court" means the Court of Appeal, but I am unable to accept that contention.

(*b*) It is argued that in Ordinances such as the Stamp Ordinance, where an appeal is allowed to the Supreme Court, the so-called "appeal" is in substance not a true appeal but a mere reference, such as is allowed in Section 18 of Ordinance No. 49 (Land Acquisition), and stress is laid on the fact that no issue is tried between the appellant and respondent: the answer is that it necessarily follows from the case of *The Commissioner of Stamps, Straits Settlements* v. *Oei Tjong Swan and Others* (Privy Council Appeals Nos. 46 and 62 of 1932) (49 T.L.R. p. 428) that the appeal from the Commissioner of Stamps is a true appeal. Moreover, in some Ordinances an appeal is allowed to the Supreme Court in cases where, unquestionably, an issue has

been tried by the original tribunal, for instance, under Section 83 of the Bankruptcy Ordinance, 1888.

In fine, I hold that under Section 18 (2) of Ordinance No. 99 (Medical Registration) an appeal lies from the decision of the Medical Council, not to the Court of Appeal, but to the Supreme Court, and in my opinion the Court of Appeal should decline to exercise jurisdiction in the present proceeding.

Solicitors for Appellant—*Braddell Bros.*

Solicitors for Respondents—*John G. Campbell & Co.*

[ORIGINAL CIVIL JURISDICTION]

MILLS, J.

May 19 and July 18, 1933.

RE SASSOON EZEKIEL

[SINGAPORE BANKRUPTCY No. 678 of 1931]

Order for payment of costs "by the Official Assignee of the property of Sassoon Ezekiel, a bankrupt"—Judgment Summons issued against Official Assignee on non-payment—Right of creditor to issue such summons—Right of Assistant Official Assignee to appear in Court as representing the Official Assignee.

When a party who is a stranger in bankruptcy proceedings has obtained an order for costs against the Official Assignee of the property of a named bankrupt and the Official Assignee makes default in payment, the party is not entitled in such proceedings to summon the Official Assignee under S. 658 of the Civil Procedure Code.

An Assistant Official Assignee has a right under Bankruptcy Rule 269 to appear and be heard as the agent of the Official Assignee in all proceedings in Court and not merely in all Bankruptcy proceedings in Court.

Judgment Debtor Summons.

In this case the Official Assignee on the 29th March, 1932, moved the Court to declare void and or to set aside certain transactions. On the 24th January, 1933, the Court made the following order on the Motion namely:—"That the said Motion be refused with costs to be taxed and paid by the Official Assignee of the property of the said Sassoon Ezekiel, a bankrupt."

The 1st Respondent, Rachael Sassoon taxed her costs under the said Order. These were certified by the Registrar on the 27th April, 1933, at the sum of $593.04 which amount was subsequently reduced to $446.44 by a set-off for reasons not material for the purpose of this report.

The Official Assignee did not pay such costs and thereupon the 1st Respondent caused a a Judgment Debtor Summons to be issued under Section 658 of the Civil Procedure Code to examine him orally respecting his ability to pay.

The Judgment Debtor Summons came on for hearing on the 16th May, 1933, when the Assistant Official Assignee appeared on behalf of the Official Assignee. A preliminary objection was at once taken by Counsel for the said 1st Respondent that the Official Assignee must attend in person to be orally examined and that on a Judgment Summons he could not be represented by an Assistant Official Assignee. Arguments took place on this contention.

Seth for Judgment Creditor.

Rule 269 is only limited to proceedings in Bankruptcy and does not confer upon an Assistant Official Assignee a right of audience in Court on an application which is not made to the Court in its bankruptcy jurisdiction.

If a judgment debtor can be legally represented on the hearing of a judgment debtor summons only an advocate and solicitor of this Court can appear on his behalf.

Asst. Official Assignee for Official Assignee.

Cur. Ad. Vult.

The Judge delivered the following written Judgment on the preliminary objection.

MILLS, J.—The judgment-creditor, acting under Section 658 of the Civil Procedure Code, has summoned the judgment-debtor, who is the Official Assignee, to be orally examined before the Court.

The Assistant Official Assignee claims the right to be heard on behalf of the Official Assignee in order that he may put forward reasons why the Official Assignee is under no legal obligation to obey the summons.

The Assistant Official Assignee bases his claim to audience on Rule 269 of the Bankruptcy Rules, which says that an Assistant Official Assignee may represent the Official Assignee in all proceedings in Court.

Contra, the advocate and solicitor of the judgment-creditor urges that Rule 269 applies only to Bankruptcy proceedings, and that as the present proceedings are not Bankruptcy proceedings, the judgment-debtor, by virtue of section 100 of Ordinance No. 101 (Courts), may be represented only by an advocate and solicitor of the Supreme Court.

I hold that the expression "all proceedings in Court" in Rule 269 of the Bankruptcy Rules means "all proceedings in Court," and is not to be interpreted to mean "all Bankruptcy proceedings in Court."